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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

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9 UNITED STATES OF AMERICA,)
10 PLAINTIFF,) 10-CR-00265-GMN-PAL
11 vs)
12 JOHN VIDAUERRI,) STIPULATION TO CONTINUE
13 DEFENDANT.) INITIAL APPEARANCE, ARRAIGNMENT,
14) ENTRY OF PLEA
15) (First Request)

16 IT IS HEREBY STIPULATED AND AGREED, by and between Daniel G. Bogden,
17 United States Attorney, and Kathryn C. Newman, Assistant United States Attorney, counsel for the
18 United States of America, and Charles E. Kelly, counsel for defendant John Vidaurri, that the hearing
19 for the defendant's Initial Appearance, Waiver of Indictment, Arraignment and Entry of Plea, in the
above-captioned matter, currently scheduled for Tuesday, July 13, 2010, at the hour of 10:00 a.m., be
vacated and continued to a date and time more convenient to this Honorable Court.

20 This stipulation is entered into for the following reasons:

21 1. Charles Kelly, counsel for the defendant is currently out of the District in connection
22 with another case. Due to circumstances beyond his control and in connection with the other matter,
23 Mr. Kelly is obligated to remain in Texas at least through tomorrow. Additional time is requested to
allow Mr. Kelly to be present at the hearing.

24 2. The parties agree to the continuance.

25 3. The additional time requested by this Stipulation is excludable in computing the time

1 within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States
2 Code Section 3161(h)(1)(D) and Title 18, United States Code, Section 3161(h)(7)(A), considering the
3 factors under Title 18: United States Code, Sections 3161(h)(7)(B) and 3161(h)(7)(B)(iv).

4. This is the first request for a continuance filed herein.

DATED this 12th day of July, 2010.

DANIEL G. BOGDEN
United States Attorney

/s/
CHARLES E. KELLY
Counsel for defendant

/s/
KATHRYN C. NEWMAN
Assistant United States Attorney

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

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5 UNITED STATES OF AMERICA,) 10-CR-00265-GMN-PAL
6 PLAINTIFF,)
7 vs >) FINDINGS OF FACT,
8 JOHN VIDAUERRI, >) CONCLUSIONS OF LAW,
9 DEFENDANT >) AND ORDER
10

11 **FINDINGS OF FACT**

12 Based on the pending Stipulation of counsel, and good cause appearing
therefore, the Court finds that:

13 1. Counsel for the defendant is out of the District in connection with another case.
14 Defense counsel is not able to return in time to attend the hearing. Additional time is requested to
15 allow defense counsel to attend the hearing.

16 2. The parties agree to the continuance.

17 3. The additional time requested by this Stipulation is excludable in computing the time
18 within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States
19 Code Section 3161(h)(1)(D) and Title 18, United States Code, Section 3161(h)(7)(A), considering the
20 factors under Title 18, United States Code, Sections 3161(h)(7)(B) and 3161(h)(7)(B)(iv).

21 4. This is the first request for a continuance filed herein.

22 For the above-stated reasons, the interests of justice would be served by a continuance
23 of the evidentiary hearing.

24 **CONCLUSION OF LAW**

25 The ends of justice served by granting the continuance outweigh the best interest of the
26 public and the defendant in a speedy trial, since the failure to grant said continuance would likely
result in a miscarriage of justice, which would deny the Court the opportunity to hear all of the

1 relevant evidence or impose a significant cost on a witness, taking into account the exercise of due
2 diligence.

3 The continuance sought herein is excludable in computing the time
4 within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States
5 Code Section 3161(h)(1)(D) and Title 18, United States Code, Section 3161(h)(7)(A), considering the
6 factors under Title 18, United States Code, Sections 3161(h)(7)(B) and 3161(h)(7)(B)(iv). Based on

7 **ORDER**

8 IT IS THEREFORE ORDERED that the Tuesday, July 13, 2010, initial
9 appearance, waiver of indictment, arraignment and change of plea is vacated and the same is
10 continued and reset for August 2, 2010, at the hour of 10:30 a.m..

11 DATED this 12th day of July, 2010.

12 
13 UNITED STATES DISTRICT JUDGE
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